

PR#9833

SMITHEE, DEREK

4/16/2009

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA
3

4 STATE OF OKLAHOMA, et al.,
5 Plaintiff,
6

7 vs. CASE NO. 05-CV-00329-GKF SAJ

8 TYSON FOODS, INC., et al.,
9 Defendants.

10 DEPOSITION OF DEREK SMITHEE
11 TAKEN ON BEHALF OF THE DEFENDANTS
12 ON APRIL 16, 2009, BEGINNING AT 9:00 A.M.
13 IN OKLAHOMA CITY, OKLAHOMA
14

15 APPEARANCES:

16 On behalf of the PLAINTIFF:

17 Mr. J. Trevor Hammons

18 Mr. Dan Lennington

19 OKLAHOMA ATTORNEY GENERAL'S OFFICE

20 313 Northeast 21st

21 Oklahoma City, Oklahoma 73105

22 (405) 522-2801

23 thammons@oag.state.ok.us
24

25 On behalf of the DEFENDANT-CARGILL, INC. AND CARGILL
TURKEY PRODUCTION:

Ms. Theresa Hill

RHODES, HIERONYMUS, JONES, TUCKER & GABLE

100 West 5th Street, Suite 400

Tulsa, Oklahoma 74103

(918) 582-1173

thill@rhodesokla.com

REPORTED BY: Laura L. Robertson, CSR, RPR

EXHIBIT

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1 question pending, let's try to answer that question
2 and then we can go off the record, otherwise I'll keep
3 plowing through this and try to get this done.

4 A. Sounds great.

5 Q. All right. I have handed you what is marked
6 as Defendant's Exhibit No. 1, will you please take a
7 look at this and tell me if you have seen this
8 document before?

9 (Defendant's Exhibit 1 marked for
10 identification)

11 A. I have.

12 Q. All right. And Exhibit No. 1 is the Rule
13 30(b)(6) notice, and page 8 of that is Exhibit A.
14 Please take a look at page 8. Are you prepared to
15 testify today on the topics listed here on Exhibit A?

16 A. I am, except for item 4, I will have trouble
17 knowing the costs of growers and to the poultry
18 industry. Only costs in my house, I don't know the
19 costs in your house.

20 Q. Are there any other topics that you will
21 have limited testimony on or have limited information?

22 A. We will just have to see as we plow through
23 this, Theresa, I think I will generally be able to
24 answer most of the others.

25 Q. Let's explore a little more what you told me

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1 about topic number 4. Did I understand you correctly
2 that you are unable or will have a difficult time
3 attributing costs to any one of the defendants in this
4 matter?

5 A. I was not asked to provide that information,
6 I have not done any research. That could be
7 discovered by someone, but I was not asked to do that.
8 So I won't be able to address that.

9 Q. All right. And same question as to any
10 costs as they might relate to any of the contract
11 growers for any of the defendants here, are you able
12 to relate any costs --

13 A. I am not.

14 Q. -- to any of the contract growers?

15 A. I am not.

16 Q. And that is because you were not asked to
17 prepare to address that topic?

18 A. That is correct.

19 Q. What did you do to prepare to address the
20 other topics on Exhibit A?

21 A. I will answer that first from a 3,000 foot
22 level, Theresa. I queried my staff and myself, and
23 generally looked back at three fundamental sources of
24 costs incurred by my staff and I, related to this
25 case.